

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
REGIONAL BENCH : ALLAHABAD**

E/71049/2018-EX[SM]

(Arising out of Order-in-Appeal No.201-CE/APPL/LKO/2018 dated 12.03.2018
passed by Commr.(Appeals)Customs, GST & Central Excise, Lucknow.)

M/s. Jaypee Cement Blending Unit

...APPELLANT(S)

VERSUS

Commissioner of Customs, Central Excise & Service Tax, Allahabad
RESPONDENT (S)

APPEARANCE

Shri Atul Gupta (Advocate) & Shri Hrishikesh Jha (Advocate) for the
Appellant (s)
Shri Shiv Pratap Singh (Dy.Commr.) (A.R.) for the Revenue

CORAM:

SHRI ANIL G. SHAKKARWAR, HON'BLE MEMBER(TECHNICAL)

DATE OF HEARING/DATE OF DECISION : 05.02.2019

FINAL ORDER NO.70221/2019

Per ANIL G. SHAKKARWAR :

After hearing both sides duly represented by Shri Atul Gupta, learned Advocate along with Shri Srishikesh Jha, learned Advocate for the appellant and Shri Shiv Pratap Singh, learned Dy.Commissioner(AR) for the Revenue, I note that the appellant had paid inadmissible Cenvat credit of around Rs.3.9 Lakhs and interest of around Rs.90,000/- before issue of show cause notice and took a plea before the original authority that in the present case since the same is covered by sub-section (2) of Section 11A inasmuch as the appellant had complied with provisions of clause (b) of sub-section (1) of Section 11A of Central Excise Act, 1944

there was no case for issue of show cause notice for imposition of penalty. The said plea was rejected by original authority and subsequently learned Commissioner(Appeals) also did not interfere with the decision of original authority. On scrutiny of record along with the submissions by the appellant, I find that the appellant had complied with the clause (b) of sub-section (1) of Section 11A of Central Excise Act, 1944 and therefore as provided under sub-section (2) of said Section 11A, there was no need to issue show cause notice for imposition of penalty. I therefore set aside the penalty imposed under Section 11AC of Central Excise Act, 1944 on the appellant and allow the appeal.

(Dictated and pronounced in the open Court.)

SD/
(ANIL G. SHAKKARWAR)
MEMBER(TECHNICAL)

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